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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,193	07/26/2001	Kwang-Leong Choy	FRYHP0102US	9311

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EXAMINER

MCNEIL, JENNIFER C

ART UNIT

PAPER NUMBER

1775

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/890,193

Applicant(s)

CHOY ET AL.

Examiner

Jennifer C McNeil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 2, 2004 has been entered.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 22, 23, 25-28, 31, 32, 35, 37, 38, 40-43, 46, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Wickersheim (US 4,560,286). Please refer to the previous office action for the text of the rejection.

Claims 20, 22-28, 31, 32, 35, 37-43, 46, and 47 are rejected under 35 U.S.C. 102(a) as being anticipated by Allison et al (US 5,730,528). Please refer to the previous office action for the text of the rejection.

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*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 21, 29, 30, 33, 34, 36, 44, 45, 48, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison et al (US 5,730,528). Please refer to the previous office action for the text of the rejection.

Claims 21, 29, 30, 33, 34, 36, 44, 45, 48, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wickersheim (US 4,560,286). Please refer to the previous office action for the text of the rejection.

*Response to Arguments*

Applicant's arguments filed February 2, 2004 have been fully considered but they are not persuasive. Applicant argues that Wickersheim does not teach a thermal barrier coating. Applicant states that a simple coating is not the same as a thermal barrier coating. The coating of Wickersheim is comprised a material similar to that claimed by applicant therefore it would be fully expected that a coating of the same material would also impart at least some thermal protection. Wickersheim also teaches that the coating material should be durable and stable (col. 6, line 68- col. 7, line 1). If applicant is attempting to become their own lexicographer, there does not appear to be a clear definition of "thermal barrier coating" in the specification other than what is "typical" in the art. Applicant has not offered a structural difference, such as thickness, between the coating of the instant claims and that of Wickersheim that would define one coating from another.

Applicant also argues that Allison does not teach a thermal barrier coating, but teaches a "pad". Allison specifically teaches coating a substrate with the phosphor material (col. 5, lines 55-60). The

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coating of Allison is comprised a material similar to that claimed by applicant therefore it would be fully expected that a coating of the same material would also impart at least some thermal protection.

Applicant has not offered a structural difference, such as thickness, between the coating of the instant claims and that of Allison that would define one coating from another. Applicant states that a thermal barrier coating has thermal insulating and structural properties. These characteristics are not reflected in the claims, nor does the specification provide a clear definition of "thermal barrier coating" other than what is typical.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer C McNeil whose telephone number is 571-272-1540. The examiner can normally be reached on 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer McNeil  
Primary Examiner  
Art Unit 1775  
April 11, 2004